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11 CENTENNIAL BANK

12 **UNITED STATES BANKRUPTCY COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

14 **[San Jose Division]**

15 In re
16 EVANDER FRANK KANE,
17 Debtor.

CASE NO. 21-50028 SLJ
Chapter 7

18
19 CENTENNIAL BANK, an Arkansas state
chartered bank,

Adv No. 21-05016

20 Plaintiff,

**CENTENNIAL BANK'S STATEMENT
REGARDING CONSOLIDATION**

21 vs.

22 EVANDER FRANK KANE,
23 Defendant.

Date: February 17, 2022
Time: 1:30 p.m. PST
Place: Via Zoom Video-conference
Judge: Hon. Stephen L. Johnson

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26 Pursuant to the "Order Continuing Status Conferences and Hearing on Proposed Adversary
27 Proceeding Schedule" (the "Order") entered on December 14, 2021, by this Court, Centennial Bank,
28 an Arkansas state chartered bank ("Centennial"), hereby files this statement concerning this Court's

1 proposal to consolidate the various pending adversary proceedings advancing §727(a) claims
2 together for discovery and trial.

3 1. On May 5, 2021, Centennial initiated the above-captioned adversary proceeding
4 (this “Adversary Proceeding”) by filing its “Complaint to Determine Nondischargeability of Debt
5 Pursuant to: 11 U.S.C. §523(a)(2)(A); and 11 U.S.C. §§727(a)(2)-(a)(5)” (the “Centennial
6 Complaint”), thereby seeking the denial of discharge as to Evander Frank Kane (“Kane”). As it
7 pertains to this statement, the Centennial Complaint contains the following four (4) causes of
8 action:

9 a. Count II: seeking denial of discharge pursuant to 11 U.S.C. §727(a)(2) (the
10 “Centennial 727(a)(2) Claim”);

11 b. Count III: seeking denial of discharge pursuant to 11 U.S.C. §727(a)(3)
12 (the “Centennial 727(a)(3) Claim”);

13 c. Count IV: seeking denial of discharge pursuant to 11 U.S.C. §727(a)(4)
14 (the “Centennial 727(a)(4) Claim”); and

15 d. Count V: seeking denial of discharge pursuant to 11 U.S.C. §727(a)(5) (the
16 “Centennial 727(a)(5) Claim”).

17 All of the foregoing are collectively referred to herein as the “Centennial 727 Claims.”

18 2. On April 1, 2021, Hope Parker (“H. Parker”) initiated her own independent
19 adversary proceeding as against Kane, Case No. 21-5008, by the filing of her “Adversary
20 Complaint for Nondischargeability of Debt Pursuant to: 11 U.S.C. §523(a)(2); and 11 U.S.C.
21 §§727(a)(2)-(a)(7)” (the “Parker Complaint”). As it pertains to this statement, the Parker
22 Complaint contains the following cause of action:

23 a. Second Claim for Relief: Debt Non-Dischargeability Pursuant to 11 U.S.C.
24 §§727(a)(2)-(a)(7) (the “Parker 727 Claim”), solely as it raises a claim under §727(a)(5).

25 3. On December 9, 2021, Zions Bancorporation, N.A. dba California Bank & Trust
26 (“Zions”), initiated its own independent adversary proceeding as against Kane, Case No. 21-5056,
27 by the filing of its “Complaint by Zions Bancorporation, N.A. Against Evander Frank Kane for
28 Denial of Discharge Under 11 U.S.C. § 727” (the “Zions Complaint”). The Zions Complaint

1 contains the following single claim for relief:

2 a. Denial of Discharge Under 11 U.S.C. § 727(a)(2) (the “Zions 727 Claim”).

3 4. On November 19, 2021, this Court entered its “Order On Scheduling Of Pending
4 Adversary Proceedings” (the “Initial Scheduling Order”) [Doc. 24], pursuant to which this Court
5 proposed to move forward with all §727(a) causes of action while putting on hold the §523(a)
6 actions, as the §523(a) actions would become unnecessary if any of the creditors were to succeed
7 on their §727(a) causes of action. In these regards, this Court proposed to bifurcate the Parker 727
8 Claim and join it with the Centennial 727 Claims, and consolidate the same for discovery and trial
9 purposes.

10 5. On December 14, 2021, this Court entered its Order in light of the fact that Zions
11 had filed the Zions Complaint, thereby asserting the Zions 727 Claim that was not otherwise
12 previously contemplated in the Initial Scheduling Order. In these regards, this Court modified its
13 prior order to include this new development. This Court further continued the status conference
14 for February 17, 2022, and requested each party to file and serve separate statements in the
15 adversary proceeding they are appearing in addressing this Court’s proposal no later than February
16 14, 2022.

17 **CENTENNIALS STATEMENT REGARDING PROPOSAL**

18 6. As it relates to this Court’s proposal, Centennial responds as follows:

19 a. Centennial does not object to the consolidation of the Parker 727 Claim
20 with the Centennial 727 Claims. Upon review of the sole Parker 727 Claim, it appears the same is
21 subsumed into the Centennial 727(a)(5) Claim, in that the same discovery and legal analysis will
22 be required.

23 b. While Centennial does not object to the consolidation of the Parker 727
24 Claim with the Centennial 727 Claim, Centennial does not believe that similar consolidation of the
25 Zions 727 Claim and Centennial 727 Claims is appropriate. While both the Centennial Complaint
26 and Zions Complaint assert 727(a)(2) claims, the basis for each claim is different. It appears that
27 Zions focuses solely on Kane’s prepetition transfer of non-exempt property into exempt property
28 pertaining to Kane’s California residence. These are not allegations that are contained within the

1 Centennial 727(a)(2) Claim. Moreover, given that the Zions Complaint only asserts the singular,
2 discrete Zions 727 Claim, it would appear that Zions ability to complete discovery and advance to
3 trial would be delayed by the Centennial 727 Claims if consolidation were ordered.

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5 DATED: February 14, 2022

ANTHONY & PARTNERS, LLC

6
7 By: /s/ John A. Anthony
8 John A. Anthony
9 Attorneys for Plaintiff
CENTENNIAL BANK

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11
12 DATED: February 14, 2022

COOPER, WHITE & COOPER LLP

13
14 By: /s/ Peter C. Califano
15 Peter C. Califano
16 Attorneys for Plaintiff
CENTENNIAL BANK

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